UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,255	06/07/2006	Ake Sjoberg	TPP 32006	1992

74217 7590 08/04/2009

NOVAK, DRUCE + QUIGG L.L.P. - PERGO
1300 Eye Street, N.W.
1000 West Tower
Washington, DC 20005

EXAMINER	
MUSSER, BARBARA J	

ART UNIT	PAPER NUMBER
1791	

MAIL DATE	DELIVERY MODE
08/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/580,255	SJOBERG, AKE	
	Examiner	Art Unit	
	BARBARA J. MUSSER	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-6 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al.(U.S. Publication 2004/0086678A1) in view of Chen et al.(U.S. Patent 6,617,009).

Chen et al. '678 discloses a method of making a decorative element by providing a core with a textured surface, applying a design layer, applying a protective wear layer made of a thermosetting resin, and curing the combination so that the layers are bonded together.([0014], [0021]-[0022]; [0030]-[0047]) The reference does not disclose pressing the layers together under increased pressure and temperature to bond them together and cure the thermosetting resin. One in the art would understand that a thermosetting resin would be subjected to increased temperature to cure. The reference also discloses applying a texture to the wear layer(Figure 3). The texture is applied to the core layer via a platen press with increased pressure and temperature.[0043] It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a platen press with increased pressure and temperature to cure the wear layer while embossing it since the reference discloses using increased pressure and temperature in a press to apply a texture and that texture

can be applied to the wear layer. Chen et al. '678 discloses the core can be fiber board or particle board.[0021]

Regarding claim 2, 4-6, 11 13, and 14, while the reference does not disclose these specific methods of applying texture, they appear to be well-known and conventional methods as applicant has not described them in any detail, indicating that those in the art know how to use the devices to perform the desired tasks. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the claimed pressing methods since such appear to be well-known and conventional methods of applying texture as evidenced by applicant's lack of description of them.

Regarding claims 15 and 16, the core layer can be fiber board or particle board.[0021]

3. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. '678 as applied to claim 1 above, and further in view of Chen et al. '009.

Chen et al. '678 does not disclose the decorative layer or the wear layer being paper, i.e. cellulose impregnated with resin. Chen et al. '009 discloses a flooring material with a core, a decorative layer, and a wear layer, wherein the decorative layer is made of a urea formaldehyde impregnated paper and the wear layer is made of the same thing.(Col. 8, ll.40-54; Col. 9, ll. 5-13) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a cellulose paper impregnated with urea formaldehyde for both the decorative layer and the wear layer since such as extremely well-known in the decorative laminate arts as shown for

example by Chen et al.'009. While the reference does not explicitly state the paper is cellulose, paper is conventionally made from wood fibers, which are cellulose, and a paper made from plastic would not be capable of being impregnated.

Regarding claims 9 and 10, Chen et al. '678 discloses that aluminum oxide particles with a particle size of 20-200 nanometers can be present in the wear layer, and Chen et al. '009 discloses these particles can be in the paper used as the wear layer.(Col. 9, ll. 5-18)

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. '678 as applied to claim 1 above, and further in view of the admitted prior art.

The reference cited above does not disclose using a press foil to apply a design. The admitted prior art discloses it is known to use press foils to apply designs to decorative laminates.(Pg. 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a press foil to apply the texture to the wear layer while applying pressure since this is a known method of applying texture as shown by the admitted prior art. This foil is provided with a structured surface,(Pg. 1), which one in the art would appreciate could include any type of pattern such as a microstructured pattern.

Response to Arguments

5. Applicant's arguments filed 5/5/09 have been fully considered but they are not persuasive.

Regarding applicant's argument that Chen et al. '678 is not a laminating process, examiner agrees. However, applicant's claims do not require a laminating process. Applicant's claims require applying multiple layers to the core. This application can be coating as the claims do not require the layers to be performed or that a laminating step occur. A laminate press is not a positive recitation of a laminating step but a description of the device, and an embossing press is the same type of device and is fully capable of laminating layers together.

Regarding applicant's argument that Chen et al. '678 is not particle board or fiber board, Chen et al. '678 explicitly discloses the core can be particle board or fiber board.[0021] Applicant appears to be suggesting that the core of Chen et al. '678 be replaced with that of Chen et al. '009, which is not even suggested by examiner.

Regarding applicant's argument that the admitted prior art does not disclose a microstructured surface on the foil, it does disclose the foil can have a pattern, and one in the art would appreciate that it could be a micro sized pattern. In any event, applicant has not argued examiner's assertion that these are well-known and conventional methods of applying textures well-known to those in the art, and thus applicant as agreed with this assertion by examiner.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA J. MUSSER whose telephone number is (571)272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BJM
/B. J. M./
Examiner, Art Unit 1791

/Richard Crispino/
Supervisory Patent Examiner, Art Unit 1791